

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of M.J., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

EDWARDESIA DAVRIETTA REED,

Respondent-Appellant,

and

JAMES MARVIN JOHNSON,

Respondent.

UNPUBLISHED

July 9, 2002

No. 236413

Wayne Circuit Court

Family Division

LC No. 83-236078

Before: Hood, P.J., and Saad and E. M. Thomas,* JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from an order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), (i), (j) and (l). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). If the court determines that the petitioner has proven by clear and convincing evidence one or more of the statutory grounds for termination, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *Trejo*, *supra* at 351-354.

Respondent contends that there was not clear and convincing evidence warranting termination under subsection (3)(c)(i) because the conditions that led to adjudication – including the lack of prenatal care, the child's premature birth, and the termination of her parental rights to nine other children – could not be rectified in the future. Strictly speaking, respondent is correct,

* Circuit judge, sitting on the Court of Appeals by assignment.

although the adjudication was also based on other factors that could be addressed such as absence of income and insurance. In any event, termination was warranted on other grounds.

Termination was clearly warranted under subsections (3)(i) and (l). It was undisputed that respondent's parental rights to her other nine children had been terminated. Her rights to five of the children were involuntarily terminated because of serious and chronic neglect and her inability to meet the requirements for reunification. Despite several years of providing services to respondent, she remained psychologically unable to appropriately parent. The trial court did not clearly err in finding clear and convincing evidence that termination was warranted under subsections (3)(i) and (j).

Termination was also appropriate under subsections (3)(g) and (j). The evidence established that respondent lacked the judgment necessary to provide a safe environment for the child. Although respondent denied living with the child's abusive father, there was credible evidence that he was frequently at her apartment and her decision to allow him in her home negated any reasonable expectation that she would be able to provide proper care and custody in a safe environment within a reasonable time. For the same reasons, termination was appropriate under subsection (3)(j). Respondent's indifference about finding a paying job and staying in counseling, along with her willingness to have the child in the same house as person with a violent temper made it likely that the child would be harmed if returned to her. There was clear and convincing evidence on both of these statutory grounds. Termination of respondent's parental rights was therefore proper.

Finally, respondent also argues that the referee erred in concluding that termination was in the child's best interests. We disagree. Contrary to respondent's argument, the evidence did not show that termination was clearly not in the best interests of the child. MCL 712A.19b(5). The trial court did not commit clear error. *Trejo, supra* at 356-357.

Affirmed.

/s/ Harold Hood
/s/ Henry William Saad
/s/ Edward M. Thomas